IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

WRIT PETITION NO : 15727 of 1993

Between:

M/s.Electronic Corporation of India Ltd.,Moula Ali, Hyderaba Rep.by its Chairman & Managing Director Dr.C.Rao Kasarabada
S/o.C.Kamaraju,

..... PETITIONER

AND

1. THe Chairman, Industrial Tribunal-II Chandra Vihar, M.J.Road,

Hyderabad.
2 The ECIL EMployees Union Moula Ali, Hyderabad.
3 The State of Andhra Pradesh, Rep.by its Secretary Incharge

Labourt, Secretariat, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue notice, call for the records and quash and set aside the Award passed in ID No.2 of 1992 dt.27-4-93 on the file of the Hon'ble Industrial Tribunal-II, Hyderabad and declare the same as null and void and inoperative by issuing a writ of Certiorari or any other appropriate writ, order or direction as the Hon'ble Court may deems fit and proper and to grant such other relief to which the petitioner is found entitled to and to allow the petition with costs, otherwise the petitioner will be put to great loss and hardship.

Counsel for the Petitioner:MR.P.NAGESWARASREE

Counsel for the Respondent No1 & 3: G.P. for Labour

Counsel for the Respondents 2 : None appeared.

The Court made the following :

O R D E R:

This Writ Petition is filed assailing the Award passed by the Industrial Tribunal-II, Hyderabad in I.D.No.2 of 1992, dated 27.4.1993.

2. The matter relates to allocable surplus under Section 2(4) of the Bonus Act (for short 'the Act').

3 . At the instance of the second respondent-union, the Government of Andhra Pradesh referred the following dispute for adjudication:

"Whether the demand of the E.C.I.L. Employees Union (Regd.No.3164) demanding higher percentage than the minimum bonus paid for the accounting year 1982-83 is justified? Is the Management right in setting off/writing off amounting to crores of rupees in one year account?

If not, what is the quantum of Bonus payable?"

4. The matter was resisted by the Management.

5. After considering the evidence adduced by both the parties, the Tribunal held that the management is not entitled to deduct 126.06 lakhs of rupees from out of gross profits. The Tribunal also held that the Management ought to have added Rs.26.24 lakhs to the net profit account of 1982-83. Accordingly, the Tribunal computed allocable surplus at Rs.86.49 lakhs. The management was directed to pay bonus to the eligible employees for the accounting year ending 31-03-1983. Taking into consideration the aforesaid allocable surplus amount of Rs.86.49 lakhs, the Tribunal held that the bonus paid @ 8.33% is incorrect. The said Award is assailed by the Management in this Writ Petition.

6. Though the notices were served on the second respondent-Union, no representation is forthcoming. Therefore, I have heard the learned Counsel for the Management and also perused the Award passed by the

Tribunal.

7. The only contention raised by the learned Counsel for the Management is that deduction of allocable surplus is permissible under Section 6 of the Act as calculated under Section 7 of the Act and therefore the Tribunal did not take this aspect into consideration. Similarly, the learned Counsel submits that the management has set-off for the year i.e. 1981-1982 a sum of Rs.26.24 lakhs towards income tax. However, since it was not acted upon, the same was carried forward to the next year 1982-83. However, the Tribunal found that apart from Rs.26.24 lakhs, which was already added to net profit, another sum of Rs.24.24 lakhs was added, thereby making addition to the net profit of the year 1982-83 by Rs.52.48 lakhs instead of Rs.26.24 lakhs. The Tribunal did not properly consider these two issues. Further, the learned Counsel also submits that the principle set in and set off ratio was also not considered according to the provisions contained under the Act.

8. After hearing the learned Counsel for the petitioner, I am of the considered view that the matter requires for re-consideration keeping in view the provisions of the Bonus Act. Under Sections 6 and 7 of the Act, a provision has been made in arriving at the allocable surplus and appropriate deduction from the gross profits. 9. Under those circumstances, the Award of the Tribunal is set aside and the matter is remitted back to the Tribunal for fresh consideration. The Tribunal shall also issue notices to the parties concerned and pass Award within four months from the date of receipt of this order.

10. Accordingly, the Writ Petition is allowed. No costs.

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G. BIKSHAPATHY, J

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday the Sixteenth Day of September, Two thousand four.

ASSISTANT REGISTRAR

To:

1. The Chairman, Industrial Tribunal-II Chandra Bihar, M.J.Road,

Hyderabad.
2. The ECIL EMployees Union Moula Ali, Hyderabad.
3. The Secretary Incharge Labour, The State Govt. of A.P.,

Secretariat, Hyderabad.

4. 2 CCs to the Govt. Pleader for Labour, High Court Buildings,

A.P.Hyderabad.(OUT)

5. 2CD copies

Dated:16-09-2004

Ccm